

HOUSE BILL REPORT

HB 1716

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to the regulation of secondhand dealers.

Brief Description: Regulating secondhand dealers who deal with precious metal property.

Sponsors: Representatives Asay, Hurst, Klippert, Pearson and Miloscia.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/15/11, 2/16/11 [DPS].

Brief Summary of Substitute Bill

- Creates a new category of secondhand dealers called secondhand precious metal dealers.
- Requires secondhand precious metal dealers to maintain specific detailed records for transactions involving precious metals for a total of three years.
- Prohibits the removal of any precious metal property bought or received in pledge or by consignment by a secondhand precious metal dealer from the place of business or the county in which it was sold in, for a period of 30 days after the receipt of that property, except when redeemed by or returned to the owner.
- Makes it an unranked class C felony to commit a second or subsequent offense that involves transactions consisting of a precious metal.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Yvonne Walker (786-7841).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

"Secondhand dealer" is defined as any person engaged, in whole or in part, in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, secondhand property.

Record Keeping. Generally, records must be maintained for each transaction for three years after the date of the transaction. The records of each transaction kept by a secondhand dealer must include the following additional information:

- date of the transaction;
- signature of the person with whom the transaction is made;
- the name, date of birth, height, weight, race, address, and telephone number of the person with whom the transaction is made;
- a complete description of the property including brand name, serial number, or model name;
- type and identifying number of identification used by the person with whom the transaction is made;
- the nature of the transaction and number identifying the transaction;
- the name or identification number of the employee conducting the transaction;
- the price paid or amount loaned; and
- the store identification number or name and the address of the store.

Transcripts of the previous day's business, when requested by the police within the time-period required by the police, may be transmitted by facsimile, electronically, or by delivery of a computer disk.

Restrictions on Transfer of Property. Property bought or received in pledge or by consignment by a secondhand dealer may not be removed from the place of business within 30 days after the receipt of that property, except when redeemed by or returned to the owner. The property must be available for inspection by the police. Following notification from the police that an item of property has been reported as stolen, a secondhand dealer must place an identifying tag on the property and keep it safe. A secondhand dealer may not release that item for 120 days without the consent of the police or an order of the court. If the police place a verbal hold on an item that has been reported as stolen, the police must give written notice confirming the hold to the secondhand dealer holding the property within 10 business days. If the police do not give written notice, the hold order will cease. The secondhand dealer must give the police written notice 20 days before the expiration of the 120-day period or the hold on the property will continue for an additional 120 days. The police may renew a hold for an additional 120-day period by giving written notice of an additional hold.

Prohibited Acts. It is a gross misdemeanor offense:

- to alter a serial number or identifying mark on a piece of personal property that has been pledged;
- to accept for pledge or secondhand purchase personal property on which the manufacturer's serial number or identifying mark has been altered;
- to make or allow a false entry or misstatement of any material matter in records required to be maintained under pawnbroker and secondhand dealer laws;

- for a secondhand dealer to accept property from anyone under 18 years of age, anyone who is under the influence of drugs or alcohol, or anyone known by the secondhand dealer to be convicted of burglary, robbery, theft, or possession of receiving stolen goods; or
 - for a secondhand dealer to engage in check cashing or selling without complying with the check casher and seller laws.
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Summary of Substitute Bill:

A "secondhand precious metal dealer" is any person or business engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value secondhand property that is a precious metal, whether or not the person maintains a permanent or fixed place of business within the state. A secondhand precious metal dealer also includes persons or entities conducting business, more than three times per year, at flea markets or swap meets.

Record Keeping for Receipt of Precious Metals. Secondhand precious metal dealers must maintain records for three years after the date of each transaction involving precious metals. Each secondhand precious metal dealer must maintain wherever that business is conducted, a record that includes the following information:

- the signature of the person with whom the transaction is made;
- the time and date of the transaction;
- the name of the person or employee or the identification number of the person conducting the transaction;
- the name, date of birth, sex, height, weight, race, residential address, and telephone number of the person with whom the transaction is made;
- a complete description of the precious metal property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones;
- the price paid; however, if the amount paid is greater than \$100, the amount may not be by cash but must be by a written instruction to pay signed by the person giving the instruction;
- the type and identifying number of identification used by the person with whom the transaction was made. The identification must consist of a valid driver's license or identification card issued by any state or two pieces of identification issued by a governmental agency. A full copy of both sides of each piece of identification used by the person with whom the transaction was made must be maintained as part of the record; and
- the nature of the transaction.

Restrictions on Transfer of Property. Property consisting of a precious metal bought or received in pledge or by consignment by a secondhand precious metal dealer, with a permanent place of business in Washington, may not be removed from the place of business for 30 days after the receipt of that property, except when redeemed by or returned to the owner. If the secondhand precious metal dealer does not have a permanent place of business in the state, the precious metal property must be stored and held within the city or county in

which the property was received for a total of 30 days after the receipt of the property, except consigned property returned to the owner. All precious metal property received by a secondhand precious metal dealer must be available for inspection by the police.

Secondhand precious metal dealers do not have to comply with the storage and holding requirement if the precious metal was bought or received from a pawn shop, jeweler, secondhand dealer or secondhand precious metal dealer, who has provided a signed declaration showing the property is not stolen.

Scrap processors are exempt from the provisions of the Business Regulation (chapter 19.60 RCW) statute referencing pawnbrokers and secondhand dealers.

License Requirement. All secondhand precious metal dealers doing business in Washington must obtain a business license from the local government in which the business is situated prior to operating a business.

Prohibited Acts. A secondhand precious metal dealer is guilty of an unranked class C felony offense if found guilty of committing a second or subsequent gross misdemeanor offense relating to illegal precious metal transactions.

If a law enforcement agency has compiled and published a list of persons who have been convicted of a theft offense, than secondhand precious metal dealers must use the list for any transactions involving property. If the property involved is a precious metal then the secondhand precious metal dealer may not engage or continue with the transaction with the (theft) offender on the list.

Hosted Home Parties. A "hosted home party" means a gathering of persons at a private residence where a host or hostess has invited friends or other guests into his or her residence where individual person-to-person sales of precious metals occur. A host or hostess must be the owner, renter, or lessee of the private residence where the hosted home party takes place.

A secondhand precious metal dealer who attends a hosted home party and purchases or sells precious metals from the invited guests must issue a receipt for each item sold or purchased at the hosted home party. Every receipt must include the following: (1) the name, residential address, telephone number, and driver's license number of the person hosting the home party; (2) the name, residential address, phone number, and driver's license number of the person selling the item; (3) the name, residential address, phone number, and driver's license number of the person purchasing the item; (4) a complete description of the item being sold, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones; (5) time and date of the transaction; and (6) the amount and form of any consideration paid for the item. However, if the amount paid is greater than \$100, the amount may not be by cash but must be by a written instruction to pay signed by the person giving the instruction.

The secondhand precious metal dealer must make four copies of each transaction receipt: one for the seller, one for the host or hostess, one for the purchaser, and one for local authorities, if they should ask. The secondhand precious metal dealer and the host shall

maintain copies of all transaction receipts and records for three years following the date of the precious metal transaction.

A secondhand precious metal dealer of a hosted home party who purchases precious metals at a hosted home party and complies with state law relating to precious metal transactions and record retention, is exempt from: (1) the record requirements mandated for all other secondhand precious metal dealers; (2) the holding requirements (before reselling) for purchases of precious metals; and (3) the requirement that mandates secondhand precious metal dealers to reference any list that has been compiled by law enforcement consisting of a list of persons who have been convicted of a theft offense.

Substitute Bill Compared to Original Bill:

A new category of secondhand dealers called "secondhand precious metal dealers," is created. New, separate, and distinct provisions relating to the regulation of secondhand precious metal dealers is created separate and distinct from pawnbrokers and other secondhand dealers.

New provisions were created to:

- require "secondhand precious metal dealers" to keep records of each precious metal transaction that includes: time and date of the transaction; signature of person with whom the transaction is made (the requirement for the person's fingerprints have been removed); name, address, telephone number and other characteristics of the person with whom the transaction is made; a complete description of the property (all references relating guns and other firearms have been removed since they are not related to the subject of precious metals); price paid; type and identifying number of identification used by the person with whom the transaction is made; nature of the transaction; and name of the employee conducting the transaction;
- prohibit "secondhand precious metal dealers" from removing the precious metals received or bought from an individual for a total of 30 days (instead of 45 days) after the receipt of that property;
- exempt secondhand precious metal dealers from complying with the storage and holding requirement if the precious metal was bought or received from a pawn shop, jeweler, secondhand dealer or secondhand precious metal dealer who has provided a signed declaration showing the property is not stolen;
- exempt scrap processors from the Business Regulation statute referencing pawnbrokers and secondhand dealers; and
- require hosts of "hosted home parties" to maintain records of all precious metal transactions occurring at the home party.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(With concerns) The substance of the bill is fine. However, there needs to be a small tweak or amendment to the bill that makes it clear that it is the "secondhand precious metal dealer" and not the "host" or "hostess" of a hosted home party purchasing the gold.

(Opposed) None.

Persons Testifying: Chuck Beck.

Persons Signed In To Testify But Not Testifying: None.